

House Bill 1176 (AS PASSED HOUSE AND SENATE)

By: Representative Ralston of the 7<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Fannin County Water Authority; to provide a short title; to define certain terms;  
2 to provide for membership, appointment, terms, cooperation, quorums, and officers of the  
3 authority; to provide for a director; to provide for purposes; to provide for powers; to limit  
4 the exercise of eminent domain by the authority; to provide for ordinance proposals; to  
5 provide for tax exemption; to provide for construction; to provide for cumulative nature of  
6 powers; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Fannin County Water Authority Act."

10 **SECTION 2.**

11 There is hereby created a body corporate and politic, to be known as the Fannin County  
12 Water Authority, which shall be a political subdivision of the State of Georgia and a public  
13 corporation, and by that name, style, and title said body may contract and be contracted with,  
14 sue and be sued, implead and be impleaded, and complain and defend in all courts of law and  
15 equity. The authority shall have perpetual existence and shall be deemed a governmental  
16 body within the meaning of the "Revenue Bond Law," Article 3 of Chapter 82 of Title 36 of  
17 the Official Code of Georgia Annotated, specifically under subparagraph (C) of paragraph  
18 (2) of Code Section 36-82-61.

19 **SECTION 3.**

20 As used in this Act, the term:

- 21 (1) "Authority" means the Fannin County Water Authority created by Section 2 of this  
22 Act.  
23 (2) "City" means a municipal corporation located within Fannin County, Georgia.  
24 (3) "County" means the unincorporated areas of Fannin County, Georgia.

(4) "Project" means the acquisition, construction, and equipping of a water system, sewer system, or combined water and sewer system and all property used or useful in connection therewith.

(5) "Revenue bonds" and "bonds" mean revenue bonds, certificates, and other obligations of the authority, as defined and provided for in Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, the "Revenue Bond Law," and such type of obligations may be issued by the authority under this Act and as authorized under said article.

(6) "System" means any water system or sewer system or combined water and sewer system of the authority.

(7) "Unified system" means the combined systems of any entity or city that might hereinafter elect to join with the authority.

#### SECTION 4.

(a) The authority shall consist of seven voting members. The governing authority of the county shall appoint the members of the authority in the following manner:

(1) Three members shall be appointed by the chairperson of the Fannin County Board of Commissioners as follows:

(A) One member shall serve for a three-year term and serve as the initial chairperson of the authority. Thereafter, the chairperson of the authority shall be elected by a majority vote of the members of the authority;

(B) One member shall serve a two-year term; and

(C) One member shall serve a one-year term;

(2) The Post One Commissioner shall appoint two members to the authority, one member to a two-year term and one member to a three-year term; and

(3) The Post Two Commissioner shall appoint two members to the authority, one member to a two-year term and one member to a three-year term.

As the term of each member of the authority expires, the appointment to the authority shall rest with the respective member of the board of commissioners. All appointments shall be appointed at a regular scheduled meeting of the board of commissioners. All succeeding terms shall be for a period of three years. The executive director of the Fannin County Development Authority shall serve as a nonvoting member of the authority. All members shall be residents of Fannin County, either in the unincorporated or incorporated areas of the county. No person initially appointed or his or her successors in office shall serve more than two consecutive terms. Any member of the board of commissioners may appoint himself or herself to the authority.

- (b) The authority may declare that any member missing three consecutive meetings of the authority has vacated his or her office. The authority may for good cause shown excuse any absence of an individual member so that it does not count toward this limit. If the authority declares an office vacated, it may request the appropriate member of the Fannin County Board of Commissioners to name a successor to serve the balance of that former member's term. Within 30 days of receiving such a request, a successor shall be appointed. Members of the authority shall be officers of the authority when performing the functions of those offices and shall not be deemed to be officers of the county or any other entity.
- (c) All members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties, including mileage reimbursed at the standard business mileage rate as determined by the Internal Revenue Service and adopted by the authority for official travel outside of the county.
- (d) A quorum of the members of the authority shall be required to transact any business. Four members of the authority shall constitute a quorum.
- (e) After the first year, the authority shall elect a chairperson from its members to serve a one-year term. There shall be no limit to the number of terms, consecutive or otherwise, that a member may serve as the chairperson.

#### **SECTION 5.**

The authority, in conjunction with the county, shall contract with an individual to serve as director to manage the system. The director shall not be a member of the authority. The director shall be a county employee, subject to the same hiring and firing criteria of any other county employee.

#### **SECTION 6.**

Without limiting the generality of any provision of this Act, the general purposes of the authority are declared to be those of acquiring, constructing, equipping, maintaining, and operating adequate water supply, treatment, and distribution facilities and sewerage collection, treatment, and distribution facilities; making such facilities and services available to public and private consumers and users located in the county; and extending and improving such facilities as necessary.

#### **SECTION 7.**

After holding a public hearing regarding and prior to entering into an operational agreement with any participating city to operate the system and subsequently entering into such an agreement, the authority shall have the following powers and duties:

- (1) To have a seal and to alter same at its pleasure;

(2) To operate a water and sewer system or systems including, but not limited to, a unified water or sewer system, or both, utilizing the systems and assets of the county and any city that elects to enter into a service agreement with the authority and to provide water and sewer services to all citizens and customers in the county and any cities that are participating and to citizens and customers in the political subdivision. It shall be the sole option of any city to enter into any such service agreement. The authority shall operate its system or systems in conformity with all applicable regulations, licenses, and permits and shall be liable to pay any fines or assessments resulting from failure to conform to same;

(3) To acquire by purchase, lease, gift, or otherwise and to hold, lease, and dispose of real and personal property of every kind and character for its corporate purposes;

(4) To acquire real or personal property in its own name by purchase, lease, exchange, gift, or otherwise on such terms and conditions and in such a manner as it may deem proper, necessary, or convenient for its corporate purposes, to use the same so long as its corporate existence shall continue, to lease or make contracts the use of the same, or dispose of the same in any manner it deems to the best advantage of the authority; and no property shall be acquired under the provisions of this Act upon which any lien or other encumbrance exists unless at the time such property is so acquired a sufficient sum of money shall be deposited in trust to pay and reduce the face value of such lien or encumbrance;

(5) To appoint, select, and employ such officers, agents, and employees as shall be necessary in the judgment of the authority to accomplish the purposes of the authority, including accountants, auditors, attorneys, consulting engineers, and other professionals; to fix their respective compensation; and to provide for pension and retirement plans for these officers, agents, and employees;

(6) To formulate and adopt an annual operating budget of all its revenues and expenses. On or before August 1 of each year, the authority shall submit its proposed budget to the county and the participating cities for their comments before its adoption by the authority;

(7) To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts for the use of projects which it causes to be constructed, erected, or acquired. Any and all persons, firms, and corporations and any and all political subdivisions, departments, institutions, or agencies of the state are authorized to enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable;

(8) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate, and manage projects, as defined in this Act, and to pay the cost of the

project in whole or in part from the proceeds of revenue bonds of the authority or from such proceeds and any grant or contribution from the United States of America or any agency or instrumentality thereof or from the State of Georgia or any political subdivision, agency, or instrumentality thereof;

(9) To borrow money for any of its corporate purposes and to issue revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof;

(10) To exercise any power usually possessed by private corporations performing similar functions, including the power to make short-term loans and approve, execute, and deliver appropriate evidence of such indebtedness, provided no such power is in conflict with the Constitution or general laws of this state;

(11) To enter into an operational agreement with the county and the participating cities detailing the power of the authority to operate any unified system and the rights of the county, any participating city, and the authority during the period of such operation. The term of such agreement shall not exceed 50 years;

(12) To be liable for payment of all charges and expenses of operating any system or unified system and to receive all income from the operation of any system or unified system;

(13) To prescribe, fix, and collect rates, fees, tolls, or charges and to revise from time to time and collect such rates, fees, tolls, or charges, provided that such rates, fees, tolls, or charges shall be calculated to cover only the cost of providing services; to provide capital to expand facilities; to maintain, replace, or expand existing facilities; to provide a reasonable reserve for operations; to fund bond sinking funds; or to fund sinking funds for other debt of the county or the city incurred to provide capital portions of their water or sewer system. The authority shall not operate any system at a profit;

(14) To accept grants of money, materials, or property of any kind from the United States of America or any agency or instrumentality thereof upon terms and conditions as the United States of America or such agency or instrumentality may impose;

(15) To accept grants of money, materials, or property of any kind from the State of Georgia or any agency or instrumentality or political subdivision thereof upon terms and conditions as the State of Georgia or such agency or instrumentality or political subdivision may impose;

(16) To accept grants of money, materials, or property of any kind from the city, the county, or any agency or instrumentality thereof upon terms and conditions as the city, county, or such agency or instrumentality may impose;

(17) To accept grants of money, materials, or property of any kind from any other source, private or public, provided that such grant or gift is not encumbered with any terms or conditions;

(18) To insure its interest and the interest of the county or any other entity with which it contracts in all assets leased or utilized by it; and

(19) To do all things necessary or convenient to carry out the powers and duties expressly given in this Act.

#### **SECTION 8.**

The authority shall have the authority to exercise any power of eminent domain; provided, however, any one acquisition shall not exceed 20 acres. Nothing in this section shall authorize the authority to exercise the power of eminent domain to obtain the water lines or resources owned by a city.

#### **SECTION 9.**

The authority shall be charged with formulating a proposal for the standardization of county ordinances relating to water and sewer services. Such ordinances shall become effective only upon adoption by the governing authority of the county.

#### **SECTION 10.**

The authority, or other entity or body which has or which may in the future succeed to the powers, duties, and liabilities vested in the authority created in this Act, shall have power and is authorized at one time, or from time to time, to borrow money for the purpose of paying all or any part of the cost of any one or more projects and to provide by resolution for issuance of revenue bonds for that purpose. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution providing for the issuance of the bonds. The interest rate or rates to be borne by any bonds and the time of payment of such interest shall be fixed, and with respect to any interest rate which floats in response to a variable, the method of calculation shall be fixed by the authority in the resolution providing for the issuance of all bonds.

#### **SECTION 11.**

The authority is authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any revenue bonds issued under the provisions of

this Act and then outstanding, together with accrued interest thereon, and to refund any revenue bonds issued by the county, or the authority with respect to any facilities to be acquired by the authority from the county, or other political subdivision or authority.

#### **SECTION 12.**

Any action to protect or enforce any rights under the provisions of this Act or any action against the authority shall be brought in the Superior Court of Fannin County, Georgia, and any action pertaining to validation of any bonds issued under the provisions of this Act shall likewise be brought in such court, which shall have exclusive, original jurisdiction of such actions.

#### **SECTION 13.**

Bonds of the authority shall be confirmed and validated in accordance with the procedure provided for in Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, the "Revenue Bond Law," as now or hereafter amended.

#### **SECTION 14.**

The properties of the authority, both real and personal, are declared to be public properties used for the benefit and welfare of the people of the county and not for purposes of private or corporate benefit and income. Such properties and the authority shall be exempt from all taxes of any city, any county, the state, or any political subdivision thereof.

#### **SECTION 15.**

This Act, being for the welfare of various political subdivisions of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

#### **SECTION 16.**

This Act does not in any way take from the county the authority to own, operate, and maintain water, sanitary sewerage, and water pollution control facilities or to issue revenue bonds as provided by Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, the "Revenue Bond Law"; but the powers granted by this Act to the authority shall be in addition to and cumulative of all other powers now or hereafter given to any political subdivision of this state.

#### **SECTION 17.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

230

**SECTION 18.**

231 All laws and parts of laws in conflict with this Act are repealed.